

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES of)	
AMERICA)	03 cr 245
)	
v.)	
)	
FREDERICK BANKS.)	

PETITION TO WITHDRAW AS COUNSEL

AND NOW comes Petitioner, Patrick Nightingale, Esquire, attorney for Appellant, Frederick Banks, and files the within Petition to Withdraw as Counsel, stating as follows:

1. Within counsel is appointed as standby counsel for Defendant Frederick Banks who has a pending Violation of Supervised Release hearing pending before this Honorable Court.

2. Within counsel was also appointed to represent Mr. Banks at his companion case docketed at 04 cr 176. In that case, Judge Conti found Defendant 1) competent to represent himself; and 2) in violation of supervised release as alleged. Defendant was sentenced to a period of incarceration and is currently housed at Northeastern Ohio Correctional Center.

3. Within counsel filed a Direct Appeal to the Third Circuit at Defendant's request as Defendant advised counsel that he was not permitted to file pleadings with the Third Circuit due to the large volume of frivolous matters he has filed.

4. Defendant's Direct Appeal is docketed at 13 cr 4594. The Third Circuit affirmed Defendant's Judgment of Sentence on July 11, 2014. Within counsel, seeing no issues to justify further appellate litigation, subsequently filed a Motion to Withdraw before the Third Circuit pursuant to Third Circuit Local Rule 109.2.

5. Today, August 7, 2014, within counsel discussed this matter with Mark Weitzman, Esquire, of the Disciplinary Board. Mr. Weitzman advised counsel that Defendant filed a complaint against counsel alleging that counsel filed a scandalous and slanderous brief

that suggested Defendant suffered from mental health infirmities when he does not. Further, Mr. Weitzman advised counsel that Defendant claims counsel was never authorized or permitted to file Defendant's Direct Appeal.

6. At 04 cr 176 Judge Conti appointed Dr. Robert Wettstein to conduct a psychological evaluation of Defendant in order to determine whether Defendant was competent to represent himself. A lengthy hearing was held during which Dr. Wettstein testified that Defendant suffered from untreated paranoid schizophrenia. Judge Conti ruled that Defendant was competent.

7. Because Defendant has filed a Disciplinary Board complaint against within counsel counsel seeks leave to withdraw his standby representation of Defendant.

WHEREFORE, undersigned counsel requests leave to withdraw from this case.

Respectfully submitted,

/s/ Patrick K. Nightingale, Esquire
Patrick K. Nightingale, Esquire
Atty. ID # 76015
210 Grant Street, Suite 401
Pittsburgh, PA 15219

CERTIFICATE OF SERVICE

I, Patrick K. Nightingale, Esquire, do hereby certify that on this 6th Day of August, 2014, a true and correct copy of the foregoing **MOTION TO WITHDRAW AS COUNSEL** was filed with the Court electronically via the Court's CM/ECF electronic filing system. The defendant named below was also served by U.S. Mail, postage prepaid, on this same date:

Frederick Banks
Inmate # 05711068
NEOCC
2240 Hubbard Road
Youngstown, OH